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Chief Clerk of the House

FILED MAR - 3 2005

By:



H.B. No. 2009

A BILL TO BE ENTITLED

AN ACT

relating to the recording of certain instruments with the Rio Grande Watermaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.3271(j), Water Code, as added by Chapter 385, Acts of the 78th Legislature, Regular Session, 2003, is redesignated as Section 11.3272, Water Code, and amended to read as follows:

Sec. 11.3272. OFFICIAL RECORDING OF INSTRUMENTS WITH RIO GRANDE WATERMASTER. (a) ~~[(j)]~~ Notwithstanding any other law, the watermaster with jurisdiction over the Rio Grande is the official recorder and central repository for all instruments, including deeds, deeds of trust, financing statements, security agreements, and liens, that are authorized or required under any law or rule ~~[the commission authorizes or requires]~~ to be filed in connection with water rights relating to water in the lower, middle, or upper basin of the Rio Grande that are subject to a permit, certified filing, or certificate of adjudication.

(b) An instrument described by Subsection (a) shall be filed with the watermaster ~~[under this subsection]~~ in the same manner as required by other law for the same type of instrument. The filing of an instrument under this section ~~[subsection]~~ results in the same legal and administrative status and consequences as a filing under other law for the same type of instrument. An instrument

1 filed under this section [~~subsection~~] shall be construed by a  
2 court, financial institution, or other affected person in the same  
3 manner as an instrument of the same type that is filed under other  
4 law.

5 (c) The watermaster may charge and collect a fee for the  
6 recordation of instruments under this section [~~subsection~~] in the  
7 same amount as the fee collected by the county clerk of Cameron  
8 County for the recordation of similar instruments.

9 (d) The commission by rule shall prescribe the procedures  
10 necessary for the proper implementation of this section  
11 [~~subsection~~], including reasonable transition provisions, if  
12 appropriate. This section is not limited to instruments that the  
13 commission authorizes or requires to be filed with the watermaster.  
14 The commission may not adopt a rule that limits or otherwise  
15 compromises the function of the watermaster as the official  
16 recorder and central repository for all instruments described by  
17 this section.

18 SECTION 2. A rule adopted by the Texas Commission on  
19 Environmental Quality before, on, or after the effective date of  
20 this Act that excludes from being recorded with the Rio Grande  
21 Watermaster an instrument described by Section 11.3272, Water Code,  
22 as redesignated from Section 11.3271(j), Water Code, and amended by  
23 this Act, or that makes the Rio Grande Watermaster the filing  
24 authority for only certified copies of those instruments instead of  
25 the official recorder of those instruments, is void.

26 SECTION 3. Section 11.3271(j), Water Code, as added by  
27 Chapter 281, Acts of the 78th Legislature, Regular Session, 2003,

1 is repealed.

2           SECTION 4. The change in law made by this Act does not  
3 affect the validity of an instrument or lien described by Section  
4 11.3272, Water Code, as redesignated from Section 11.3271(j), Water  
5 Code, and amended by this Act, that was recorded or perfected before  
6 the effective date of this Act.

7           SECTION 5. This Act takes effect September 1, 2005.

# HOUSE COMMITTEE REPORT

1<sup>st</sup> Printing

05 MAY -6 PM 6:12  
HOUSE OF REPRESENTATIVES

By: Flores

H.B. No. 2009

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(b) An instrument described by Subsection (a) shall be filed with the watermaster ~~[under this subsection]~~ in the same manner as required by other law for the same type of instrument. The filing of an instrument under this section ~~[subsection]~~ results in the same legal and administrative status and consequences as a filing under other law for the same type of instrument. An instrument

1 filed under this section [~~subsection~~] shall be construed by a  
2 court, financial institution, or other affected person in the same  
3 manner as an instrument of the same type that is filed under other  
4 law.

5 (c) The watermaster may charge and collect a fee for the  
6 recordation of instruments under this section [~~subsection~~] in the  
7 same amount as the fee collected by the county clerk of Cameron  
8 County for the recordation of similar instruments.

9 (d) The commission by rule shall prescribe the procedures  
10 necessary for the proper implementation of this section  
11 [~~subsection~~], including reasonable transition provisions, if  
12 appropriate. This section is not limited to instruments that the  
13 commission authorizes or requires to be filed with the watermaster.  
14 The commission may not adopt a rule that limits or otherwise  
15 compromises the function of the watermaster as the official  
16 recorder and central repository for all instruments described by  
17 this section.

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19 Environmental Quality before, on, or after the effective date of  
20 this Act that excludes from being recorded with the Rio Grande  
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23 this Act, or that makes the Rio Grande Watermaster the filing  
24 authority for only certified copies of those instruments instead of  
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4 11.3272, Water Code, as redesignated from Section 11.3271(j), Water  
5 Code, and amended by this Act, that was recorded or perfected before  
6 the effective date of this Act.

7       SECTION 5. This Act takes effect September 1, 2005.

# COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

4/28/05

(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 2009 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.  
☐ do pass, with amendment(s).  
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

☒ yes ☐ no A fiscal note was requested.

☐ yes ☒ no A criminal justice policy impact statement was requested.

☐ yes ☒ no An equalized educational funding impact statement was requested.

☐ yes ☒ no An actuarial analysis was requested.

☐ yes ☒ no A water development policy impact statement was requested.

☐ yes ☒ no A tax equity note was requested.

☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Bonnen	X			
Campbell	X			
Geren	X			
Hardcastle				X
Hilderbran				X
Hope				X
Laney				X

Total

5 aye  
0 nay  
0 present, not voting  
4 absent

Al H. H. H.  
CHAIR

## **BILL ANALYSIS**

H.B. 2009  
By: Flores  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Rio Grande Watermaster is responsible for allocating, monitoring and controlling the use of surface water in the Rio Grande Basin from Fort Quitman to the mouth of the Rio Grande. Unlike elsewhere in Texas where water is a flow resource, surface water in the Rio Grande below Lake Amistad is a stock resource meaning that water accumulates in Lake Amistad and Falcon Lake reservoirs and is released on demand. Amistad and Falcon reservoirs are considered one system with water frequently released from the upstream dam (Amistad) to replenish Falcon reservoir and meet the demands in the Lower Rio Grande Valley.

The Rio Grande Watermaster is the authorized agent allowed to request releases of United States water held in storage at Amistad/Falcon. In addition to the existing authority of watermasters, HB 2009 makes clear that the Rio Grande Watermaster is the official recorder and central repository for all instruments in connection with water rights relating to the water in the lower, middle, or upper Rio Grande.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

### **ANALYSIS**

SECTION 1. Section 11.3271(j) is redesignated as Section 11.3272, Water Code. OFFICIAL RECORDING OF INSTRUMENTS WITH RIO GRANDE WATER MASTER.

Requires the Rio Grande Watermaster (the Watermaster) to maintain a central repository that includes certified copies of all instruments, including deeds, deeds of trusts and liens that are authorized or required under any law or rule to be filed in connection with water rights relating to water in the lower, middle, and upper basin of the Rio Grande and that are subject to a permit, certified filing or certificate of adjudication.

An instrument filed with the Watermaster shall be filed in the same manner as required by other law for the same type of instrument and has the same legal and administrative status and consequences as a filing under other law. An instrument filed under this section is construed by a court, financial institution or other person in the same manner as an instrument filed under another law. The Watermaster may collect fees for recording written instruments. The Texas Commission on Environmental Quality (TCEQ), by rule, may prescribe the procedures necessary for the proper implementation of this section; however it may not adopt a rule that limits or compromises the function of the Watermaster as the official recorder and central repository for all instruments described by this section.

SECTION 2. A rule adopted by TCEQ before, on or after the effective date of this Act that excludes from being recorded with the Watermaster written instruments under Sec. 11.3272, or that makes the Watermaster the filing authority for only certified copies instead of the official recorded, is void.

SECTION 3. Section 11.3271(j), Water Code, added by Chapter 281, Acts of the 78th Legislature, Regular Session 2003, is repealed.

SECTION 4. Change in law by this Act does not affect the validity of an instrument or lien that was recorded before the effective date of this Act.

### **EFFECTIVE DATE**

September 1, 2005.

H.B. 2009 79(R)

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## SUMMARY OF COMMITTEE ACTION

HB 2009

March 30, 2005      8:00AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 28, 2005      upon final adjourn./recess

Considered in formal meeting

Reported favorably without amendment(s)

**WITNESS LIST**

**HB 2009  
HOUSE COMMITTEE REPORT  
Natural Resources Committee**

**March 30, 2005 - 8:00AM**

**For: Parker, Richard (Texas Land Developers Association,  
Inc.)**

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 28, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2009** by Flores (Relating to the recording of certain instruments with the Rio Grande Watermaster.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would require the Rio Grande Watermaster, a division of the Texas Commission on Environmental Quality (TCEQ) to be the official recorder and central repository for all legal instruments filed in connection with water rights relating to the Rio Grande Watermaster. The Rio Grande Watermaster would be allowed to charge a fee equal to that charged by Cameron County for recording legal instruments.

The TCEQ expects that passage of the bill would result in costs of \$61,000 in fiscal year 2006 and \$45,000 in subsequent years out of the Watermaster Administration Account No. 158 for administrative costs related to accepting, filing, and maintaining the additional documents that would be received at the Rio Grande Watermaster office. This includes funding for additional storage space. The TCEQ also estimates revenues of \$13,400 to the Watermaster Administration Account No. 158 as a result of fees collected for the recording of instruments. This estimate assumes that neither the costs or revenue implications of the bill would be significant.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, ZS, TL

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H.B. No. 2009

A BILL TO BE ENTITLED  
AN ACT

By

Karl J. Sten

relating to the recording of certain instruments with the Rio Grande Watermaster.

**MAR - 3 2005**

Filed with the Chief Clerk

**MAR 14 2005**

Read first time and referred to Committee on

**Natural Resources**

**APR 28 2005**

Reported favorably (~~as amended~~)  
(~~as amended~~)

**MAY 09 2005**

Sent to Committee on (Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on \_\_\_\_\_

Reported favorably \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read third time, \_\_\_\_\_, and passed by a (viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

05 MAY -6 PM 6:12

HOUSE OF REPRESENTATIVES